# **Appendix 7-C WATER RIGHTS**

All Water Rights can be accessed from the Utah Water Rights web page at <a href="www.waterrights.Utah.gov">www.waterrights.Utah.gov</a>. Included in this Appendix is pertinent information that cannot be accessed from the Water Rights web page.



August 20, 1985 Salt Lake City, Utah

#### TO WHOM IT MAY CONCERN:

I, LaVenda Kingston, widow of C. W. Kingston and owner of 333.77 shares of stock in and to the Huntington Cleveland Irrigation Company, hereby grant unto Co-op Mining Company, the right to use the water represented by such shares in its mining operations, or for any other use Co-op Mining Co. deems appropriate.

LaVenda Kingston

Lavenda Lingston

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4 West Main Street • P.O. Box 718 • Price, UT 84501 • 801-637-1303

September 30, 1983

Division of Oil, Gas and Mining Attn: Joseph C. Helfrich 4241 State Office Building Salt Lake City, Utah 84114

Dear Mr. Helfrich:

At the request of Mr. Melvin Coonrod, consultant for Co-op Mining Company, please be advised that the above mentioned company has filed Change Application No. a-12921 (93-1067), of which a copy is enclosed, requesting the right to withdraw up to 0.25 sec.-ft. of water from a mine tunnel in Bear Canyon located at a point: N. 79 ft. & E. 75 ft. from the SW Cor. Sec. 26, T16S, R7E, SLB&M. It is proposed to use the water for mining and irrigation purposes within the SE¼, NE¼, T16S, R7E, SLB&M.

The change application was filed with this office on September 2, 1983. Normal processing time for such a request is 90-120 days, provided that there are no protests filed.

I trust that this brief explanation will he'p clarify their present water rights status. If I can assist further in any way please feel free to call on me.

Sincerely,

Mark P. Page Area Engineer

cc: Melvin Coonrod

Co-op Mining Company

Enclosure

### Application for Permanent Change of Point of Diversion Place and Nature of Use of Water STATE OF UTAH

bein	Please clearly and correctly complete the inform g changed. (Type or clearly print.)	ation requested b	elow which	defines the r	ight or rights	
For	the purpose of obtaining permission to permanen	tly change: the	point of	diversion 🖾,	place [] or	
nati	ire of use [], of water rights acquired by	Charles W Ki	ngston Decree or ot	A-35836 (9)	3-1067) a of right)	
lf ti	e right described has been amended by a previous	approved change	e applicatio	n, give the nu	imber of such	
cha	nge application. Noa-6330					
	The name of the applicant is					
2.	The post-office address of the applicant is				84110	
3.	The flow of water which has been or was to ha	ve been used in s	econd-leet	ia	) <del>************************************</del>	
4.	The quantity of water which has been or was to	have been used	in scre-fee	t is	·····	
5.	The water has been or was to have been used fo	r and during peri	ods as follo	we:		
	Irrigation	from April 1		w Octobe	r 31 incl	
	(purpose) Mining	(month) Januar	· (day) v l	(month) Decemb	(day) er 31	
	(purpose)	(month)	(day)	(month)	(day)	
	and stored each year (if stored)	rom		to	incl,	
		(month)	(day)	(month)	(day)	
6.	The direct source of supply is	.(CANYON). in , drain, river; if oth	Emery	************	County.	
7.	The point or points of diversion. N. 210 ft.			Cor. Sec.	22,	
	T16S, R7E, SLBM Hiavat					1.
				******	, , , , , , , , , , , , , , , , , , ,	
	(Must be the same as that of right being changed unless point or points approved in the previous change.	s a previous change )	has been li	led and approved	i. Then use the	
٥.	Diversion works:					
	If a well give diameter and depth	********	***************************************	······································	·····	
	If a dam and reservoir give height, capacity, and	d area inundated.	************	***************		
		n and pipalin	······	*******************	***************************************	
_	If other give type of diversion facility					
9.	The water involved has been or was to have be described legal subdivisions; (If used for irrigation supplemental rights.)	en used for the on, state sole or s	following upplements	purposes in d supply, and o	the following iescribe other	
	Irrigation SEESEE Sec. 22, NEE	NEŁ Sec. 27:	T165 . R7	E, SLBM		
	***************************************		**********	*****************	······	
	Total acres to be irrigated	********				
	Stockwatering (number and kind)		····			
	Domestic (number of families and/or persons, e	te.)	************			
	Other Mining	·	•	<del></del>		
10.	The point at which water has been or was to have	e been returned	to the str	eam channel	is situated as	
	follows: (Please describe method of return.)	******************************	·	***************************************	***************************************	
	Note: Paragraph 10 is to be completed only when all or ;	part of the water is	returned to	the netweet stee		
	The Following Cha			wermen stid	e:= W +45006i.	
11	The flow of water to be changed in cubic feet per	_	_			
	The quantity of water to be changed in acre-feet			******************	-	
	Num -		*************	·	***************************************	
	Appl					

3.	The water will be used each year for: Irrigation		April 1		October	
	(purpose)	lrom	(month)	(day) .		(day)
	Mining	!rom	January 1		to December	31 i
	(purpose)		(month)	(day)	(month)	(day)
	and stored each year (if stored) from	- <del></del>	(month)		to	
	It is now proposed to divert the water fr	rom			FAR CAMPON)	
			(i.e., spring,	spring are	a, stream, river, dre	in, well, etc.)
	at a point(s) as follows: Na 79 fts	be Oue	5 ft, from	the SW	cor. Sec. 24 lydro Survey	Sheer 71
					*****************	
	NOTE: The "point of diversion," or "point of ret with reference to some regularly established Uni distance of six miles of either, or if a greater of must also be described by metes and bounds.	turn," mus ited States distance to	t be located by c land corner or some prominent	ourse and o United Sta Land perm	stes mineral monu anent natural obje	ingular distar ment if withi cL A spring a
•	The proposed diverting and conveying we Pump and Pipeli	irks will .ne	consist of: (if a	well, sta	te diameter and	depth the <del>re</del>
,	If water is to be stored, give espacity of					
	area inundated in acreslegal					
			01 8768			********
•	The water is to be used for the following for irrigation, state sole or supplemental SEŁ, NEŁ, SEC. 26; T	purpose	s in the follow	ing descri	bed legal subdivi	isions: (if u
	***************************************		Total acres to h	e irrigate	-d .50	
	but limited to the sole irrigation supply of					
	Stockwatering (number and kind)					
	Domestic (number of families and/or pe					
	Other Mining .	•	***************************************		***************************************	
	If paragraphs 11 and 12 designate that or is to be changed, designate the status of the or used as heretofore.	nly part he water	of the right de so affected by	scribed in this cha	n paragraphs 1 t nge as to its bei	o 10 inclusi ng abandon
	FY	DI AN	ATORY	· <del></del>	·	
	The following additional facts are set for		<b>-</b>			
	ose of the proposed change: The chang	e in t	he point of	divers	ion is due to	every une n
_	ose or are brobosed thanks:	•	location of			**************
	***************************************				<b></b>	****************
	***************************************		********			
••	***************************************	**********	***************************************	······································	<del></del>	•••••••••••••••••••••••••••••••••••••••
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•••	***************************************	······································	******************		************************	*************
'n	The undersigned hereby acknowledges the above-numbered application through the assimility for the accuracy of the information	courtesy	of the emplo	vecs of the	he State Engine	e'e Office e
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			10-25-20	dia	/r:	7

Signature of Applicant

## Application for Permanent Change of Point of Diversion Place and Nature of Use of Water STATE OF UTAH

ь	eing changed. (Type or clearly print.)						
	For the purpose of obtaining permission to permanently change: the point of diversion [2], place [3], or taking of use [1], of water rights acquired by Changles, W. Kinggang, A. 25025, 192, 19521.						
n							
I	(Give Number of Application, certificate of appropriation, title and date of Decree or other identification of right.)  the right described has been amended by a previous approved change application, give the number of such						
cl	hange application. Noa-6330						
:	1. The name of the applicant is Mcs. Charles W. (layenda) Kingston						
	2. The post-office address of the applicant is 862 East Gacfield Ave. SLC. Utah 84110						
	The flow of water which has been or was to have been used in second-feet is						
	1. The quantity of water which has been or was to have been used in acre-feet is						
	5. The water has been or was to have been used for and during periods as follows:						
	irrigationfrom_April_1to_October_31incl. (purpose) (month) (day) (month) (day)						
	Mining from January 1 to December 31 :						
	(purpose) (month) (day) (month) (day)						
	and stored each year (if stored)incl.						
	(month) (day) (month) (day)						
•	i. The direct source of supply is Tunnel Canyon in Emery County.  (well, spring, stream, drain, river; if other explain)						
7	The point or points of diversion N. 210 ft. & W. 320 ft. from E. Cor. Sec. 22,						
	T165, R7E, SLBM Hiawatha Quad. San Rafael R. Hydro Survey						
	Sheet 21 Sheet 21						
	(Must be the same as that of right being changed unless a previous change has been filed and approved. Then use the point or points approved in the previous change.)						
8.	Diversion works:						
	If a well give diameter and depth.						
	If a dam and reservoir give height, capacity, and area inundated.						
	If other give type of diversion facility. Pump and pipeline						
9.	The water involved has been or was to have been used for the following purposes in the following described legal subdivisions: (If used for irrigation, state sole or supplemental supply, and describe other supplemental rights.)						
	Irrigation SE SE Sec. 22. NE NE Sec. 27: T165, R7E, SLBM						
	Total acres to be irrigated,50						
	Stockwatering (number and kind)						
	Domestic (number of families and/or persons, etc.)						
	Other Mining						
10.	The point at which water has been or was to have been returned to the stream channel is situated as						
	follows: (Please describe method of return.)						
	Note: Paragraph 10 is to be completed only when all or part of the water is returned to the natural stream or channel.						
	The Following Changes Are Proposed						
11.	The flow of water to be changed in cubic feet per second is25						
12	The quantity of water to be changed in acre-feet is						

#### (This page not to be filled in by applicant)

#### STATE ENGINEER'S ENDORSEMENTS

	541,1993.	Change Application received over counter in State Engineer's office by
	***************************************	Priority of right to make change brought down to, on account of
	***************************************	Fee for filing Application \$, received by, Receipt No
	***************************************	Application microfilmed by Roll No and indexed by
		Application platted by
	4-2-83	Application examined by
	***********	Application returned, with letter, tofor correction
	***************************************	Corrected application resubmitted over counter to State Engineer's office
	9-2-83	Application approved for advertisement by
		Notice to water users prepared by
	Dec. 21 1973	Notice to water users prepared by
	,	Proof slips checked by
	1-30-54	Change Application protested by 1) Huntington City
		Publisher paid MEV No.
	8/20/26	Application designated for approval by Application designated for rejection
	***	Change Application copiedproofread by
	9-27-84	Change Application approved and returned to applicant
		is approved on the following conditions:
		truction work necessitated by proposed change shall be diligently prosecuted to comple-
	tion.	
		ange shall be submitted to the State Engineer's office by
	3. This change	is subject to all conditions imposed on the approval of the original application or right $1-31-98$
	*****************	· · · · · · · · · · · · · · · · · · ·
		State Engineer
	*************************	Time for making proof of change extended to
		Proof of change submitted.
		Certificate of change No issued.
	I hereby certify thange the point of	hat the foregoing is a true copy of the Application by  f diversion, place and nature of use of water as shown, with endorsements thereon, on ce on the date given below.
r T	ecords of my offi	ce ou the aute Pitch ociont
τ	•	

73-1061

13.	3. The water will be used each year for:		•				
	lcrigationf		to October				
	(purpose)		(day) (month)	(day)			
	Mining & Domestic f	rom January 1 (month)	to(day) (month)	(day)			
	(purpose)		· • ·	· • ·			
	and stored each year (if stored) from	(month)	(day) (month)	(day)			
14.	1. It is now proposed to divert the water from.	(i.e., spring, s	pring area, stream, river, dra	in, well, etc.)			
	at a point(s) as follows: N. 79 ft. & E.	. 75 ft. from th	ne SW cor. Sec. 24				
	T165, R7E, SLBM Hiawatha Qu	iad. San Rafae	I R. Hydro Survey	Sheet 21			
		" must be located by co States land corner or t ace to some prominent	urse and distance or by recta United States mineral monuc and permanent natural obje	CE A sprang area			
15.	<ol> <li>The proposed diverting and conveying works         Pump and pipeline     </li> </ol>			depth thereof)			
16.	5. If water is to be stored, give capacity of rese	rvoir in scre-feet	NA* height of dar	nNA			
	area inundated in acresNAlegal sub						
	* 2 - 10,000 ga. tanks						
17.	7. The water is to be used for the following purifor irrigation, state sole or supplemental sur Irrigation SE <sup>1</sup> NE <sup>1</sup> Sec. 26; T16S	oply, and describe ot	her supplemental rights.)				
	***************************************	Total acres to b	e irrigated50				
	but limited to the sole irrigation supply of		ACTES.				
	Stockwatering (number and kind)						
	Domestic (number of families and/or persons, etc.) 1 family, shower house 25 mine per						
	OtherMining						
18.	If paragraphs 11 and 12 designate that only part of the right described in paragraphs 1 to 10 inclusive is to be changed, designate the status of the water so affected by this change as to its being abandoned or used as heretofore.						
	EXPL	ANATORY					
	The following additional facts are set forth	in order to define	more clearly and comp	letely the full			
DUF	urpose of the proposed change: The ch						
	a change in the location of mi						
*****							
******							
	***************************************						
<b>4</b>			****				
resp	The undersigned hereby acknowledges that if the above-numbered application through the exponsibility for the accuracy of the information opticant.	curtesy of the emplo	oyees of the State Engin	ier's Ullice, all			
	ر. پر این		Signature of Applicant (	<i>)</i>			



#### tate of Uta DEPARTMENT OF NATURAL RESOURCES DIVISION OF WATER RIGHTS

Norman H. Bangerter Governor Dee C. Hansen Executive Director

1636 West North Temple, Suite 220 Salt Lake City, Utan 84116-3156 801-538-7240 Robert L. Morgan State Engineer 801-538-7240 801-538-7315 (Fax)

July 2, 1992

Co-Op Mining Company c/o Joseph O. Kingston 53 West Angelo Avenue Salt Lake City, UT 84115

Dear Applicant:

RE: APPROVED CHANGE APPLICATION NUMBER 93-3657 (a15965)

Enclosed is a copy of approved Change Application No. 93-3657 (a15965). This is your authority to proceed with the actual construction work which under Section 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof of appropriation be made to the State Engineer on or before January 31, 1996, otherwise, the application will be lapsed.

Proof of change is evidence to the State Engineer that the water has been placed to its full intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location and the uses for the water. Your proof of change will become the basis for the extent of your water right.

Failure on your part to comply with the requirements of the statutes may result in forfeiture of this application. It is the applicants obligation to maintain a current address with this office. Please notify this office immediately of any address change.

Your contact with this office, should you need it, is with the Regional Engineer, Mark Page. The telephone number is (801)637-1303.

Sincerely,

Robert L. Morgan /P.E.

State Engineer

Encl.: Copy of Approved Change Application

Memorandum Decision

#### BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION )

NUMBER 93-3657 (a15965)

MEMORANDUM DECISION

Change Application Number 93-3657 (a15965) was filed January 11, 1991, by Co-Op Mining Company c/o Joseph O. Kingston. Heretofore, 15.0 acre-feet of water has been diverted from Huntington Creek at the Cleveland Canal located at a point North 1740 feet and East 160 feet from the S1/4 Corner of Section 9, T17S, R8E, SLB&M. The water has been used for irrigation and livestock purposes. The water under this change application is represented by Stock Certificate Number 2690, in the amount of 48 shares of Class A stock in the Huntington-Cleveland Irrigation Company. Hereafter, the applicant proposes to divert the same quantity of water from a spring located at a point South 1725 feet and West 1280 feet from the NE Corner of Section 22, T16S, R7E, SLB&M, and from the Bear Canyon Mine portal located at a point North 79 feet and East 75 feet from the SW Corner of Section 24, T16S, R7E, SLB&M. The water is to be used for the domestic supply of 19 families, the supplemental irrigation of 1.39 acre, and for uses associated with coal mining at the Bear Canyon Mine, which includes bathhouse facilities, dust suppression, fire protection and other related uses.

Public notice of the change application was given in <u>The Emery County Progress</u> beginning February 5, 1991, and ending February 19, 1991. Subsequent to the public notice, protests were filed by the North Emery Water Users' Association, Castle Valley Special Service District, and Huntington City.

A hearing was held on Thursday, May 2, 1991, in Castle Dale, Utah to review the application and receive comments from the protestants. The applicant was represented by Attorney Carl E. Kingston. The protestants were represented by their legal counsel, Mr. Jeffrey W. Appel.

In defense of the application, Mr. Kingston indicated that Co-Op Mining Company has been mining coal in Trail and Bear Canyons since 1940. During this time, it has been their understanding that the water used at the mine and for the residences in Trail Canyon has been validated by shares of stock owned in the Huntington-Cleveland Irrigation Company, and by an individual water right referenced as 93-1067. He indicated that all of the mining prior to 1980 took place in Trail Canyon. At that time, because of geologic problems, the mining effort was moved to Bear Canyon where it is still taking place.

The present use of water is reflective of the historic use made at the mine and the residences. The spring referenced in this change application is located in Trail Canyon and is used to provide water for the 19 residences, as well as a portion of the irrigated acreage. The water diverted at the mine portal provides for the mining and support facilities, which includes an office and bathhouse, as well as irrigation of top soil stock piles. The in-mine use involves dust control at the mine face. The individual water right owned by the applicant is also diverted from the Bear Canyon Mine portal and used for domestic, irrigation and mining uses in Bear Canyon. This right is junior in priority to the rights of the Huntington-Cleveland Irrigation Company.

MEMORANDUM DECISION CHANGE APPLICATION NUMBER 93-3657 (a15965) PAGE -2-

By way of background concerning this change application, Mr. Kingston indicated that in 1990, Co-Op transferred 60 shares of their Irrigation Company stock to a neighboring mine. At that time, his client was contacted by the Irrigation Company requesting that shares of stock be transferred to the mine because Co-Op's private water right is junior to the rights of the Irrigation Company. As a result, the applicant had Stock Certificate #2690 divided from a prior Certificate in the amount of 48 shares. It should be noted that the applicant holds an additional 188.77 shares of stock in the Company.

Mr. Kingston believes that the concerns of the protestants, which deal with claimed interference of the water quality and quantity of their culinary springs in the area has not resulted from the applicant's diversion of water for mining purposes.

Mr. Richard White, a Hydrologist with Earthfax Engineering, was present at the hearing and indicated that he was retained by the applicant to perform a hydrologic study of the area. In his review of Huntington Creek flow data, spring flow data from Big Bear, Little Bear, Tie Fork and Birch Springs, and recent precipitation data from five stations in the area, it appeared to him that the concerns of the protestants rest in the fact that for the past several years, less than normal precipitation has fallen on the watershed. As a result, water has not been available to recharge the springs. He also indicated that the quantity of water flowing in the Bear Canyon Mine has been relatively constant since 1984. Therefore, it is his opinion that the Co-Op Mining operation is not interfering with, nor are they responsible for the reduced flows at the protestants' springs.

Mr. Appel, speaking in behalf of the protestants, indicated that the concerns of his clients centered around two main problems: First, a reduction in the quantity of water available for delivery to the culinary and municipal water systems; Secondly, the degradation of the water quality, particularly in Birch Spring. Collectively, the protestants provide culinary and municipal water to approximately 4000 people in Emery County, and these sources of water are invaluable. Mr. Appel feels that the water that has historically been diverted by the applicant has been done without the benefit of a properly approved water right. He also stated that the applicant's historic water use exceeds the limit of their private water right, which according to his information is limited to the irrigation of 0.50 acre.

His clients believe that the continuing decline in flow at Birch Spring and Big Bear Spring, can be attributed to the applicant's mining activity in Bear Canyon. During a 120 day period in late 1989 and early 1990, the water flow at Birch Spring increased approximately threefold. During this same time period, the other springs in the area continued to experience a slight decrease in flow. Also during this unusual flow event, oil and grease were found in Birch Spring. As a result, the protestants have filed protests against the renewal of the applicant's mining permit with the Division of Oil, Gas & Mining, as well as this water application.

MEMORANDUM DECISION CHANGE APPLICATION NUMBER 93-3657 (a15965) PAGE -3-

It is the opinion of the protestants that the applicant's mining operation has interfered with the quantity and quality of their culinary springs. As a result, the granting of this change application, and the renewal of the applicant's mine permit should be held in question. Mr. Appel feels that his clients rights have been jeopardized as a result of the applicant's ongoing violations of their current mining permit as it pertains to their underground as well as surface operations, and the approval of this water right will result in continued problems.

Attorney Kingston stated that data obtained from core holes drilled at the Bear Canyon Mine indicated that the regional aquifer which underlies the mining permit area, is below the area being mined. As a result, contamination from in-mine work could not influence the quality of the protestants' water sources. In a similar manner, the re-charge area for the protestants' springs is located up slope from the applicant's surface facilities. Contamination of the springs from this area of the mining operation would be highly unlikely. He further indicated that Co-Op will drill four monitor wells to further define the location of the regional aquifer in relation to their mining activities. Additional sampling will also be scheduled which will include Big Bear and Birch Springs, if the protestants will allow access to these sources.

Mr. Appel asked that he be allowed ten days from the date of the hearing to provide supplemental comments to the hearing record. This request was granted. Mr. Kingston was afforded an opportunity to provide a response to Mr. Appel's comments.

On May 23, 1991, this office received Mr. Appel's additional comments. They centered around the lack of information contained on the applicant's change application. He pointed to deficiencies with respect to the prior points of diversion, places and extent of use. Again, he raised the issue concerning the applicant's private water right. He also questioned the supplemental nature of the change application. He feels that the approval of this application will result in an enlargement of the water right. Attorney Appel also pointed out that his clients' use of the water is statutorily recognized as a higher priority use than that of the applicant. Therefore, interference should not be allowed to continue. Because of the many deficiencies found in the application, and the enlargement and priority issues, Mr. Appel believes that the application should be denied by the State Engineer.

On June 3, 1991, this office received Mr. Kingston's response. He indicated that the issues raised and addressed at the hearing, had not changed. The historic water use by the applicant at Trail and Bear Canyons has not significantly changed. The applicant has maintained a personal water right, as well as shares in the Company to cover their water use. Mr. Kingston pointed out that the information contained on the change application is adequate, and does represent the intent of the applicant. Therefore, he feels that the application should be approved, and allow the applicant to continue the historic use of the water.

MEMORANDUM DECISION CHANGE APPLICATION NUMBER 93-3657 (a15965) PAGE -4-

The State Engineer has reviewed the written responses from the applicant in defense of the application, as well as the report prepared by Earthfax Engineering. Likewise, all of the information, testimony and reports provided by the protestants, which includes two reports from geologist Bryce Montgomery, have also been reviewed. It appears that there are two issues that need to be resolved. One is the protestants' concerns with the physical mining operation of the applicant, and their purported interference with the underground water flow paths, as well as aquifer contamination. These are matters that are not within the jurisdiction of the State Engineer to resolve, and will not be dealt with in this proceeding. It appears that the applicant and protestants should continue to work with the Division of Oil, Gas & Mining, in an attempt to resolve these concerns.

The second issue which will be addressed in these proceedings is whether or not the proposed change application can be approved in accordance with the provisions of Sections 73-3-3 and 73-3-8. It is believed that the change application as filed with this Division contains all of the relevant information and meets the statutory requirements of the law. It is not vague and misrepresentative of the applicant's intentions. It is noted that the origin of the water rights held by the protestants and the applicant are based on share ownership in the Huntington-Cleveland Irrigation Company. The pertinent rights were decreed in the A.H. Christensen Decree dated January 28, 1915. The relative priorities of the applicant's and protestants' water rights are equal. It is recognized that domestic and municipal uses are superior to other uses with the same priority if water availability becomes a critical issue, and there is insufficient water to provide for all uses. However, it is the opinion of the State Engineer that a critical water shortage does not exist which may require such a declaration.

In reviewing all of the pertinent information, including information from a recent field examination, it is believed that the current water use at the Bear Canyon Mine and the associated uses in Trail Canyon have not significantly changed over the past many years. The applicant is not seeking to divert additional water nor change water sources beyond current practices. It is the opinion of this Division that there has not been definitive information provided by the protestants concerning the applicant's interference with historic flows at the protestants' springs. Each party is encouraged to sample and monitor their water sources for their own protection, and for the mutual benefit of each. It is the opinion of the State Engineer that the approval of this change application will not interfere with the water rights of the protestants or other water users on Huntington Creek.

It is, therefore, ORDERED and Change Application Number 93-3657 (al5965) is hereby APPROVED subject to all prior rights and the following conditions:

1) The applicant must install totalizing water meters at the spring and the mine portal to measure all water diverted and utilized, and provide additional information concerning the in-mine use. A written report of the annual water use is to be provided to the State appointed River Commissioner. Any costs

MEMORANDUM DECISION CHANGE APPLICATION NUMBER 93-3657 (a15965) PAGE -5-

associated with the monitoring and regulating this change application shall be borne by the applicant.

- No changes in the points of diversion can be made without prior authorization from the Division of Water Rights.
- Continued ownership of the shares of stock must be maintained which provide the basis for this change application.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 2nd day of July, 1992.

RLM/MPP/mjk/jb

Mailed a copy of the foregoing Memorandum Decision this 2nd day of July, 1992, to:

Co-Op Mining Company Attn: Carl E. Kingston, Attorney 53 West Angelo Avenue Salt Lake City, UT 84115

North Emery Water Users' Association Castle Valley Special Service District Huntington City Attn: Jeffrey W. Appel and Michele Mattsson c/o Haley & Stolebarger 175 South Main Street, Suite 1000 Salt Lake City, UT 84111

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MEMORANDUM DECISION CHANGE APPLICATION NUMBER 93-3657 (al5965) PAGE -6-

Huntington-Cleveland Irrigation Company ATTN Varden Wilson 55 North Main Huntington UT 84528

Oran Varden Wilson River Commissioner PO Box 406 Huntington, UT 84528

Judy Bandour Secretary

### APPLICATION FOR PERMANENT CHANGE

JAN 17 1997

JAN 1 1 1991

Fee Paid \$ 3000 Receipt # 29987

STATE OF UTAH

WATER RIGHTS PRICE Microfilmed \_\_\_\_\_

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO 95 5057	*APPLICATION NO. a	<u>a-15965</u>	
Changes are proposed in (check those approximately point of diversion. $\chi$	olicable)	nature of use	pariod of use
	place of use	nature of use	period of use.
OWNER INFORMATION Name: Co-Op Mining Company	c/o Joseph O. Kings	ton	*Interest:%
Address. 53 West Angelo Avenue	e		
City: Salt Lake City	State: _	Utah	Zip Code: 84115
*PRIORITY OF CHANGE: January 1	1, 1991	_ *FILING DATE:	January 11, 1991
*Is this change amendatory? (Yes/No):			
RIGHT EVIDENCED BY: A.H. Christ	ensen Decr <mark>ee -</mark> Hunti	ngton Creek	93-228
Huntington-Cleveland Irrigation	Company Stock Certi	ficate No. 26	90
Prior Approved Change Applications for t			
****			
QUANTITY OF WATER: SOURCE:Huntington Creek		ac-ft.	
COUNTY: Emery			
POLITICA OF PRIEDCION See Attac	hed Sheet		
POINT(S) OF DIVERSION: See Attac	hed Sheet		
POINT(S) OF DIVERSION: See Attac	hed Sheet		
POINT(S) OF DIVERSION: See Attac	hed Sheet		
POINT(S) OF DIVERSION: See Attac	hed Sheet	sion dams, ear	then ditches, pipelir
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth	hed Sheet	sion dams, ear	then ditches, pipelir
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth  POINT(S) OF REDIVERSION	hed Sheet  and concrete divers		
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth	hed Sheet  and concrete divers		
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth  POINT(S) OF REDIVERSION	hed Sheet  and concrete divers		
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth  POINT(S) OF REDIVERSION  The water has been rediverted from	and concrete divers	at a point:	
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth  POINT(S) OF REDIVERSION	and concrete divers	at a point:	
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth POINT(S) OF REDIVERSION The water has been rediverted from  Description of Diverting Works:  POINT(S) OF RETURN	and concrete divers	at a point:	
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth POINT(S) OF REDIVERSION The water has been rediverted from  Description of Diverting Works:  POINT(S) OF RETURN	and concrete divers	at a point:	
POINT(S) OF DIVERSION:See Attace  Description of Diverting Works:Earth  POINT(S) OF REDIVERSION  The water has been rediverted from  Description of Diverting Works:  POINT(S) OF RETURN  The amount of water consumed is  The amount of water returned is	_ cfs orac-ft.	at a point:	
POINT(S) OF DIVERSION: See Attace  Description of Diverting Works: Earth POINT(S) OF REDIVERSION The water has been rediverted from  Description of Diverting Works:  POINT(S) OF RETURN The amount of water consumed is	_ cfs orac-ft.	at a point:	

<sup>\*</sup>These items are to be completed by the Division of Water Rights.

10	. NATURE AND PERIOD OF USE
	Irrigation: From March 2 to November 14
	Stockwatering: From <u>January 1</u> to <u>December</u> 31
	Domestic: From <u>January 1</u> to <u>December 31</u>
	Municipal: Fromto
	Mining: Fromto
ŧ .	Power: Fromto
	Other: Fromto
11	PURPOSE AND EXTENT OF USE
	Irrigation: 32,673.26 acres. Sole supply of acres.
	Stockwatering (number and kind): 6797 Cattle
	Domestic: 650 Families and/or Persons.
	Municipal (name):
	Mining:Mining District in theMine.
	Ores mined:
	Power: Plant name:Type:Capacity:
	Other (describe):
12.	PLACE OF USE
12.	- 2.102 01 002
	Legal description of place of use by 40 acre tract(s): Within the boundaries of the Huntington-Cleveland Irrigation Company distribution system
	overeing tringgeron company gratification system
13.	STORAGE
	Reservoir Name: Storage Period: from to
	Capacity: ac-ft. Inundated Area: acres.
	Height of dam:feet.
	Legal description of inundated area by 40 tract(s):
14.	QUANTITY OF WATER: cfs and/or15.0ac-ft. SOURCE: 2) Mine POrtal
16	Balance of the water will be abandoned:, or will be used as heretofore:
17	POINT(S) OF DIVERSION: 1) S. 1725 ft. & W. 1280 ft. from NF Cor. Sec. 22:
17.	POINT(S) OF DIVERSION: 1) S. 1725 ft. & W. 1280 ft. from NE Cor. Sec. 22; 2) N. 79 ft. & E. 75 ft. from SW Cor. Sec. 24, both T16S, R7E, SLB&M.
	Description of Diverting Works: Collection boxes, sumps, portable pumps & 10,000 gal. storage to *COMMON DESCRIPTION: 11 miles NW of Huntington Hiawatha Quad
18	POINT(S) OF REDIVERSION
10.	The water will be rediverted from at a point:
	at a point:
	Description of Divionting Monks
	Description of Diverting Works:
19	POINT(S) OF RETURN
	The amount of water to be consumed is cfs orcfs.
	The amount of water to be consumed is cis or ac-ft.
	The amount of water to be retained isUS UI dUI.
,	

20.	NATURE AND PERIOD OF USE	
	Irrigation: From March 2 to November 14	
	Stockwatering: Fromto	
	Domestic: From January 1 to December 31	
	Municipal: Fromto	
<b>ノ</b>	Mining: From January 1 to December 31	
	Power: Fromto	
	Other: Fromto	
21.	PURPOSE AND EXTENT OF USE	
	Irrigation: 1.39 acres. Sole supply of 1.00 acres.	
	Stockwatering (number and kind):	
	Domestic: 19 Families and/or Persons.	
	Municipal (name):	
	Mining: Unnamed Mining District at the Bear Canyon Mining	nε
	Ores mined: Coal	
	Power: Plant name: Type: Capacity:	
	Other (describe):	
22.	PLACE OF USE	
	Legal description of place of use by 40 acre tract(s): E½NE¼, NE¼SE¼ Sec. 22, SE¼NE¼, N⅓SE¼ Section 26, both T16S, R7E, SLB&M.	
٦٦.	STORAGE	
_	Reservoir Name: Storage Period: from to	_
	Capacity: ac-ft. Inundated Area: acres.	
	Height of dam: feet.	
	Legal description of inundated area by 40 tract(s):	
24.	EXPLANATORY	
	The following is set forth to define more clearly the full purpose of this application. Include any supplemen	ta
	water rights used for the same purpose. (Use additional pages of same size if necessary):  This Change Application will be used supplementally with 93-1067 for irrigation	
	purposes only.	_
	**************************************	
	The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparati of the above-numbered application through the courtesy of the employees of the Division of Water Rights, responsibility for the accuracy of the information contained herein, at the time of filing, rests with tapplicant(s).	al h
	Signature of Applicant(s)	
	orgunita or whhireauria)	

Howard Ditch

N. 730 ft. & E. 1110 ft. from ₩ Cor. Sec. 36, T16S, R7E, SLB&M

Brinkerhoff Ditch

N. 1030 ft. & W. 370 ft. from SE Cor. Sec. 36, T16S, R7E, SLB&M

Dell Lott Ditch

S. 370 ft. & E. 350 ft. from NW Cor. Sec. 6, T17S, R8E, SLB&M

Elk & Rilda Springs

Elk Spring: N. 2100 ft. & E. 1800 ft. from SW Cor. Sec. 5, T17S, R7E, SLB&M Rilda Spring: N. 200 ft. & W. 2700 ft. from E½ Cor, Sec. 29, T16S, R7E, SLB&M

Harrison Ditch

N. 760 ft. from SW Cor. Sec. 5, T17S, R8E, SLB&M

Rowley Ditch

N. 100 ft. & E. 1270 ft. from SW Cor. Sec. 5, T17S, R8E, SLB&M

North Ditch

N. 960 ft. & W. 440 ft. from E4 Cor. Sec. 15, T17S, R8E, SLB&M

Seely & Collard Ditch

S. 1320 ft. & W. 300 ft. from N<sup>1</sup>/<sub>4</sub> Cor. Sec. 8, T17S, R8E, SLB&M

Robins-Truman Ditch

N. 2300 ft. & W. 60 ft. from S\( \frac{1}{4} \) Cor. Sec. 9, T17S, R8E, SLB&M

Cleveland Canal

N. 2290 ft. & W. 65 ft. from S¼ Cor. Sec. 9, T17S, R8E, SLB&M Re-diversion point: N. 750 ft. & E. 1950 ft. from W¼ Cor. Sec. 11, T17S, R10E, SLB&M

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Bear Canyon Spring

N. 2045 ft. & E. 185 ft. from S\ Cor. Sec. 26, T16S, R7E, SLB&M

Little Bear Canyon Spring

N. 1750 ft. & W. 95 ft. from S¼ Cor. Sec. 9, T16S, R7E, SLB&M

Huntington Canal

S. 850 ft. & W. 530 ft. from N1/4 Cor. Sec. 15, T17S, R8E, SLB&M4

Unnamed Spring

N. 2813 ft. & W. 2716 ft. from S4 Cor. Sec. 26, T16S, R7E, SLB&M

Birch Spring

N. 2026 ft. & W. 2172 ft. from S4 Cor. Sec. 26, T16S, R7E, SLB&M

Unnamed Spring

S. 1120 ft. & W. 2020 ft. from N<sub>4</sub> Cor. Sec. 35, T16S, R7E, SLB&M

Ranger Station Spring

S. 928 ft. & E. 147 ft. from N¼ Cor. Sec. 23, T16S, R7E, SLB&M

#### STATE ENGINEER'S ENDORSEMENT

CHANGE APPLICATION NU	MBER: a15965	WATER RIGHT NUMBER: 93 - 3657				
1. January 11, 1991	Change Applica	tion received by MP.				
2. January 11, 1991	Priority of Ch	ange Application.				
3. January 15, 1991 February 6, 1991 March 28, 1991	Publication be	viewed and approved for advertising by MP. gan in Emery County Progress. mpleted and verified by LK.				
4. March 22, 1991	End of protest Application pr					
5. March 2, 1992	Application de	signated for APPROVAL by MP and KLJ.				
6. Comments: <u>Protested by: Nor District and Hunting</u>	. Comments: <u>Protested by: North Emery Water Users' Association, Castle Valley Special District and Huntington City 3/22/91</u>					
Conditions: This application is subject to prior rig	hereby APPROVED ghts and the fol	by Memorandum Decision, dated July 2, 1992, lowing conditions:				
diligently prosecu	uted to completi e shall be submi	sitated by proposed change shall be on. tted to the State Engineer's Office				
		Robert L. Morgan, P.E. State Engineer				
Time for making Proof	of Change exten	ded to				
Proof submitted	· · · · · · · · · · · · · · · · · · ·					